



## Heritage Fund

# FACT SHEET

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For additional information  
on conservation easements  
contact:

### Arizona Game and Fish Department

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## CONSERVATION EASEMENTS

### DESCRIPTION

A conservation easement is a deed restriction landowners voluntarily place on their property to protect resources such as productive agricultural land, ground and surface water, wildlife habitat, historic sites, or scenic views. They are used by landowners ("grantors") to authorize a qualified conservation organization or public agency ("grantee") to monitor and enforce the restrictions set forth in the agreement. Conservation Easement agreements are flexible documents tailored to each property and the needs of individual landowners. They may cover an entire parcel or portions of a property. The landowner usually works with the prospective grantee to decide which activities should be limited to protect specific resources.

### RESTRICTIONS

The unique aspect of protecting land by granting a conservation easement is that the land remains in private ownership. The limitations identified in a conservation easement are tailored to suit the unique characteristics of individual properties as well as the different activities and interests of the landowner. In general, conservation easements limit subdivision, commercial activities, industrial activities and other uses inconsistent with the goal of the conservation easement. Some easements allow lots to be reserved for family members.

### TERM OF THE RESTRICTIONS

Most conservation easements are permanent. Term easements impose restrictions for a specified number of years. Regardless of the duration of the easement, the agreement is legally binding on future landowners for the agreed-upon time period. Easements may also be terminated by eminent domain proceedings.

### RETAINED RIGHTS

After granting a conservation easement, landowners retain title to their property and can still restrict public access, farm, use the land as collateral for a loan or sell their property. Land subject to an easement remains on the local tax rolls. Landowners continue to be eligible for state and federal farm programs.

## **VALUATION**

Landowners can sell or donate a conservation easement to a qualified conservation organization or government body. In either case, it is important to determine the value of the easement to establish a price or to calculate tax benefits that may be available under federal and state law. The value of a conservation easement is generally the fair market value of the property minus its restricted value, as determined by a qualified appraiser. In general, more restrictive agreements and intense development pressure result in higher easement values.

## **TAX BENEFITS**

There may be income, estate, and property tax benefits for donating a conservation easement. The amount and type of tax benefits depend on a variety of factors, including the legal tool you have used to protect the land, the value of the donation, your income level and total amount of your estate. You should consult with a financial advisor and/or an attorney to fully understand the tax implications.

## **WHY SHOULD I GRANT A CONSERVATION EASEMENT?**

People grant conservation easements because they love their “open space” land, and want to protect it from inappropriate development while keeping it under private ownership. Granting an easement to a conservation organization that qualifies under the Internal Revenue Code as a “public charity” can yield income and estate tax savings. Moreover, the Arizona Game and Fish Department (AGFD) and land trust personnel have the expertise and experience to work with landowners and ensure the land will remain as permanent open space.

## **WHAT STEPS DO I TAKE TO WRITE A CONSERVATION EASEMENT?**

- Contact AGFD or a local land trust to become acquainted with the organization and the services they can provide.
- Explore with them the conservation values you want to protect on the land.
- Discuss what you want to accomplish, and what development rights you want to retain.
- Consult with your own attorney or financial advisor regarding this substantial decision.

## **HOW LONG DOES A CONSERVATION EASEMENT LAST?**

Most easements “run with the land,” binding the original owner and all subsequent owners to the easement’s restriction. Only gifts of perpetual easements can qualify for income and estate tax benefits. The easement is recorded so all future owners and lenders will learn about the restrictions when they obtain title reports.

## **WHAT ARE AGFD’S OR A LAND TRUST’S RESPONSIBILITIES REGARDING CONSERVATION EASEMENTS?**

AGFD or a land trust is responsible for enforcing the restrictions the easement document spells out. Therefore, the land trust monitors the property on a regular basis (typically once a year) to determine that the property remains in the condition prescribed by the easement document. AGFD or the land trust maintains written records of these monitoring visits, which also provide the landowner an opportunity to keep in contact with the organization.

## **BENEFITS**

Conservation easements permanently protect important land while keeping it in private ownership and on local tax rolls. Conservation easements are flexible, and can be tailored to meet the needs of individuals and their properties. Conservation easements can provide several tax benefits including income, estate, and property tax reductions.